IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8478 OF 2006

Smt.Smita Arvind Karnik .. Petitioner
V/s
The State of Maharashtra & Ors. .. Respondents

Mr.S.S.Bhise for the Petitioner.
Mr.R.S.Apte for Respondent No.2.
Mr.S.D.Patil for Respondent Nos.3 & 4.

CORAM : B.H.MARLAPALLE & NARESH H.PATIL,JJ.
DATE : 25th September, 2006.

P.C.:

1. The alleged illegal contruction is a disputed question of fact which cannot be gone into in a writ petition filed under Article 226 of the Constitution, having regard to the affidavit in reply filed by Respondent Nos.3 & 4. The affidavit filed by the Municipal Corporation also states that the petition is being used as eviction proceedings by the landlord through power of attorney holder viz.the builder. We therefore deem it appropriate not to entertain the petition and leave the landlord to an alternative civil remedy before the competent sub-ordinate court. Petition is therefore disposed off by relegating the petitioner to an alternative civil remedy to approach the competent sub-ordinate Court.

(NARESH H.PATIL,J.) **(B.H.MARLAPALLE, J.)**